

Trafficking in Persons Report 2011

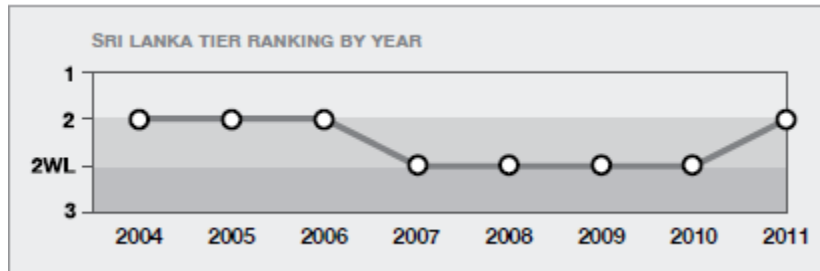
SRI LANKA (Tier 2)

Sri Lanka is primarily a source and, to a much lesser extent, a destination for men, women, and children subjected to forced labor and sex trafficking. Sri Lankan men, women, and some children (between 16 and 17 years old) migrate consensually to Kuwait, Jordan, Saudi Arabia, Qatar, Lebanon, the United Arab Emirates (UAE), Oman, Bahrain, and Singapore to work as construction workers, domestic servants, or garment factory workers. Some of these workers, however, subsequently find themselves in conditions of forced labor through practices such as restrictions on movement, withholding of passports, threats, physical or sexual abuse, and threats of detention and deportation for immigration violations. Many of these migrants pay high recruitment fees – usually about \$1,500 – imposed by unscrupulous licensed labor recruitment agencies and their unlicensed sub-agents and assume debt in order to satisfy these costs. This indebtedness contributes to debt bondage in destination countries. A recent Human Rights Watch report noted that over one-third of Sri Lankan domestic workers in Jordan are physically abused by their employers, 11 percent were sexually assaulted, 60 percent were not paid wages, over 60 percent had their passports confiscated, and 80 percent experienced forced confinement – these are abuses that indicate forced labor. In the past year, there were high-profile reports of Sri Lankan domestic workers who were subjected to forced labor and physical abuse in Saudi Arabia, Kuwait, and Jordan, including having more than 20 nails hammered in their bodies, or being forced to swallow nine nails. There were also reports of cases in which some Sri Lankan recruitment agencies committed fraud by engaging in contract-switching: promising one type of job and conditions but then changing the job, employer, conditions or salary after arrival, which are documented risk factors for forced labor and debt bondage. Sri Lanka is reported to be a transit country for men, some of whom may be trafficking victims, traveling from Pakistan and Bangladesh to Dubai, UAE. In several cases, men were stranded in Sri Lanka by the employment agent. Some Sri Lankan women were promised jobs as domestic workers in other countries, but after arriving were instead forced to work in brothels, mainly in Singapore. A small number of Sri Lankan women are forced into prostitution in the Maldives.

Within the country, women and children are subjected to sex trafficking in brothels, especially in the Anuradhapura area, which was a major transit point for members of the Sri Lankan Armed Forces heading north. Boys are more likely than girls to be forced into prostitution – this is generally in coastal areas for domestic child sex tourism. In 2009, the National Child Protection Authority (NCPA) estimated that approximately 1,000 children were subjected to commercial sexual exploitation within Sri Lanka although some NGOs believed the actual number was between 10,000 and 15,000. NGOs expressed concern that the recent increase in tourism in the very poor post-conflict areas on the east coast may increase demand for child sex tourism. There are reports of children being subjected to bonded labor and forced labor in dry-zone farming areas on plantations, and in the fireworks and fish-drying industries. Some child domestic workers in Colombo, generally from the Tamil tea-estate sector of the country, are subjected to physical, sexual, and mental abuse, nonpayment of wages, and restrictions of their movement. Some women and children were promised garment industry work by agents and were instead forced into prostitution. A small number of women from Thailand, China, and countries in South Asia, Europe, and the former Soviet Union may be subjected to forced prostitution in Sri Lanka.

Sri Lanka does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government convicted three traffickers, in the first case under its anti-trafficking

legislation, and rejuvenated its inter-agency task force. However, serious problems remain unaddressed, such as the detention of identified trafficking victims (including those who provided evidence to support the three convictions), the failure to achieve criminal convictions for fraudulent recruitment agencies involved in trafficking in persons, and official complicity in human trafficking.



Recommendations for Sri Lanka: Vigorously investigate and prosecute suspected trafficking offenses, and convict and punish trafficking offenders, particularly those responsible for recruiting victims with fraudulent offers of employment and excessive commission fees for the purpose of subjecting them to forced labor; ensure that victims of trafficking found within Sri Lanka are not detained or otherwise penalized for unlawful acts committed as a direct result of their being trafficked, such as visa violations or prostitution; establish law enforcement capacity at shelters in embassies abroad; develop and implement formal victim referral procedures; train local law enforcement and judicial officials on investigating and prosecuting trafficking crimes; facilitate the speedy repatriation of foreign trafficking victims by providing airfare and not obligating them to remain in the country if they choose to initiate law enforcement proceedings; provide witness protection and incentives for victims to cooperate with law enforcement to enable prosecutions; stop the practice of forcing foreign trafficking victims to remain in Sri Lanka if they are witnesses in a case; improve services, including quality of shelters, legal aid, availability of counseling, and numbers of trained staff at embassies and consular offices in destination countries; promote safe tourism campaigns to ensure that child sex tourism does not increase with expected rapid growth of tourism; and improve regulation and monitoring of recruitment agencies and village-level brokers, with an emphasis on ensuring provision of accurate and enforceable employment contracts and working to ending the charging of illegal and excessive fees.

Prosecution

The Sri Lankan government increased law enforcement efforts in addressing human trafficking cases over the reporting period. Sri Lanka prohibits all forms of trafficking through an April 2006 amendment to its penal code, which prescribes punishments of up to 20 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious offenses, such as rape. Amendments passed in 2009 to the Foreign Employment Act expanded the powers of the Sri Lanka Bureau of Foreign Employment (SLBFE) to prosecute recruitment agents who engage in fraudulent recruitment, prescribing a maximum penalty of four years' imprisonment and fines of \$1,000, and restricting the amount that employment agents can charge. In March 2011, three traffickers were convicted and sentenced to nine years each for forcing women into prostitution, in one case. This is the first recorded convicted case under Sri Lanka's counter-trafficking amendment. However, the Uzbek sex trafficking victims in the case were detained in an immigration detention facility in Sri Lanka for over a year until their testimony was complete. The Attorney General's Department claimed two additional convictions in 2010 for violations of the penal code's statute on child sexual exploitation; both convictions may have involved human trafficking crimes.

Both convictions resulted in suspended jail sentences. Each trafficker had to pay a fine of approximately \$900, and one had to pay compensation of \$450 to the victim. In January 2011, the National Child Protection Authority (NCPA) completed an investigation and could not determine the whereabouts of the remaining boys allegedly in armed service with the Tamil Makkal Viduthalai Pulikal (TMVP)/Karuna Faction; some of these boys may be trafficking victims. There were no prosecutions against persons allegedly responsible for conscription of child soldiers.

During the year, there was some evidence of government officials' complicity in trafficking. There were allegations that police and other officials accepted bribes to permit brothels to operate; some of the brothels exploited trafficking victims. Many recruitment agencies were run by politicians or were politically connected. Some sub-agents cooperated with Sri Lankan officials to procure forged or modified documents, or real documents with false data, to facilitate travel abroad. There were no reported law enforcement actions taken against officials complicit in human trafficking. The Sri Lankan Police continued to teach a counter-trafficking module to all police recruits during their basic trainings. Additionally, police officers who were previously trained in IOM training-of-trainers courses conducted 16 training workshops at local police stations on counter-trafficking in the reporting period.

Protection

The government made limited progress in protecting victims of trafficking during the year. The government placed two Uzbek women who were found in forced prostitution in late 2009 in a detention center, which they were allowed to leave during the day but were locked up at night. The government did not permit them to leave Sri Lanka for over a year until they had the opportunity to provide testimony against their alleged traffickers, instead of allowing the Uzbeks to leave the country while their cases were pending or to remain in the country with protections such as immigration relief, freedom of movement, and the right to work. They were then given permission to leave the country, and with the assistance of IOM, departed Sri Lanka in December 2010. The government forces foreign trafficking victims to remain in Sri Lanka if they are witnesses in a case until evidence has been given. The government continued to provide some counseling and day care for abused children through the operation of six resource centers, although it is not known how many trafficked children, if any, were assisted in the reporting period. The Sri Lanka Bureau of Foreign Employment (SLBFE) operated nine short-term shelters in 2010 in Jordan, Kuwait, Libya, Oman, Saudi Arabia, and the United Arab Emirates as well as an overnight shelter in Sri Lanka's international airport for returning female migrant workers who encountered abuse abroad. It is unknown how many trafficking victims were assisted in these shelters in the reporting period. While the missions provide shelter and legal aid, domestic workers seeking assistance complained of long waiting periods with little information about their cases. In addition, there were complaints that the shelters were grossly overcrowded with unhygienic conditions. In a news report of female Sri Lankan workers who fled their employers in Jordan due to lack of paid wages and abuse, one worker noted that the Sri Lankan embassy shelter was no better than a prison, as it did not permit the domestic workers to leave the premises. There have been some reports of abuse by Sri Lankan embassy officials in shelters abroad.

A Workers' Welfare Fund is maintained by the SLBFE, also funded by fees charged to workers upon migration. Through this fund, the widely reported case of the female in domestic servitude in Saudi Arabia who returned with 24 nails in her body received approximately \$4,500 to build a house, with the assistance of the National Housing Authority. Neither the government nor NGOs or international organizations provided protection facilities for men. The Ministry of Child Development and Women's Affairs (MOCDWA) has a memorandum of understanding with IOM to

establish a shelter which can house 10 to 15 women and child victims of trafficking and abuse. When the building is renovated and prepared – with a tentative deadline of later this year – the ministry will take over operation and management of the shelter.

Government personnel did not employ formal procedures for proactively identifying victims. The National Counter Human Trafficking Resource Center of the Sri Lanka Department of Immigration and Emigration trained 10 immigration officers on the identification of trafficking victims, in partnership with IOM, in 2010; 50 officers were trained in 2009. The government pursued a partnership with the Salvation Army to transfer women and child victims of abuse to protection facilities, though it is unknown how many trafficking victims, if any, were referred in the reporting period. Foreign trafficking victims could not seek employment in Sri Lanka. The government permitted foreign trafficking victims to leave the country unless they were witnesses in a case, in which case the government forced them to remain until evidence had been given. IOM reported several cases of victims who chose to leave the country rather than file a complaint. The Commissioner General for Rehabilitation, with the assistance of the NCPA, continued to operate two rehabilitation centers specifically for children involved in armed conflict, some of whom may be trafficking victims, in partnership with UNICEF. The Commission also continued to run a vocational training center with donor support. These facilities served approximately 700 former child soldiers in the reporting period. The Sri Lankan government has reported that all former Liberation Tigers of Tamil Eelam (LTTE) child soldiers completed rehabilitation and were released in May 2010. However, at least 250 children formerly associated with armed groups faced a number of security issues, and some were arrested by police.

The government did not encourage victims to assist in the investigation and prosecution of trafficking cases; instead, they sometimes forced victims to testify if they chose to file charges. While Sri Lankan trafficking victims in theory could file administrative cases to seek financial restitution, this did not happen in practice due to victim embarrassment and the slow pace of the Sri Lankan legal system. In addition, prosecutors were prevented under Sri Lankan law from meeting with witnesses outside of formal court proceedings. Thus, they had to rely on police to convince a witness to testify. The government penalized adult victims of trafficking through detention for unlawful acts committed as a direct result of being trafficked. Most commonly, these acts were violations of their visa status or prostitution. All detainees who were awaiting deportation for visa violations, including trafficking victims, remained in detention facilities until they raised enough money to pay for their plane ticket home, which in some cases has taken years. The government provided no legal alternatives for the removal of foreign victims to countries where they may face hardship or retribution. The SLBFE continued to provide training on protection and assistance to its staff members who worked at embassies and consulates in foreign countries, although many of the labor attaches working in labor-receiving countries are political appointees who do not receive any training.

Prevention

The Sri Lankan government made some progress in its efforts to prevent trafficking during the last year. The government formed an inter-ministerial anti-trafficking task force in October 2010, led by a coordinator from the Ministry of Justice, and developed a terms of reference on how government agencies will work together to combat trafficking. This task force took over the monthly meetings previously held by the MOCDWA, and met six times in the reporting period. While it does not include civil society, the coordinator of the task force recently announced it would soon open up quarterly meetings to NGOs and community organizations. The government limits the recruitment fees to \$70 for jobs paying less than \$200 per month and \$100 for jobs paying over \$200. The SLBFE requires migrant

domestic workers with no experience working in the Middle East to complete a free 12-day pre-departure training course. It is not known how many migrant workers completed this course in the reporting period. The SLBFE and the Department of Labor conducted awareness programs on safe migration. In measures that could prevent transnational labor trafficking of Sri Lankans, the SLBFE reported that it filed 727 charges against recruitment agencies in 2010 under Sections 398 (cheating) and 457 (forgery for the purpose of cheating), conducted 84 raids against employment agents, and fined recruitment agencies found to be guilty of fraudulent practices over \$40,000. The Criminal Investigation Division of the police, in cooperation with Interpol and the Royal Malaysian Police, investigated four fraudulent recruitment agents who may have been responsible for the forced labor of Sri Lankans in Malaysia.

While most Sri Lankans have birth certificates and (after the age of 16) national identity cards, many of the 250,000 to 350,000 internally displaced people – a group very vulnerable to trafficking – did not have these documents. The Government of Sri Lanka continued to provide personnel time to conduct mobile documentation clinics for conflict-affected people with UNDP. The Government of Sri Lanka did not report any efforts to reduce the demand for commercial sex acts during the reporting period. The Ministry of Defense provided training to all Sri Lankan peacekeepers prior to their deployments for international peacekeeping missions relating to human rights, including trafficking. Sri Lanka is not a party to the 2000 UN TIP Protocol.